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File No. Coop II/42

Legal Dept

B **BRANCH**

Subject:-

Rules and Notifications under the Bombay co-operative Societies Act 1925

P 8/(E)

File No. Coop II/43

Gen. 194 e.

61-B

OFFICE OF THE R.L.A.

The language employed by section 4 of the Act is powers of a Registrar under this Act, which covers -

(1) powers conferred on the Registrar by the Act, and

(2) powers conferred on him by rules made under the Act.

It would therefore be feasible under section 4 of the Bombay Co-operative Societies Act, 1925 to confer on Assistant Registrars t the powers of a Registrar under rule 17A of the Bombay Co-operative Societies Rules, 1927. The draft notification at page 1 ante sent for the purpose is revised and a revised draft is sent herewith.

Sd/-P.N.M.
11-1

Remembrancer of Legal Affairs.

U.R. to R.D., No, 257, dated 12th January 1943.

MKP/1418

S.C. 14/7

4 copies.

NOTIFICATION.

Revenue Department.

Bombay Castle, Jsnuary 1943.

No.- In exercise of the powers conferred by section 4 of the Bombay Cooperative Societies Act, 1925, (Bom. VII of 1925), the Government of Bombay is pleased to confer on Assistant Registrars of Cooperative Societies the powers of a Registrar under rule 17A of the Bombay Cooperative Societies Rules, 1927.

By order of the Governor of Bombay.

Secretary to Government.

S.C. 14/7

4 copies.

Office of the R.I.A.

Before the proposed draft order under section 67 of the Bombay Co-operative Societies Act, 1925 (Bom. VII of 1925) at p. 3 is vetted in this office, R.D. is requested to consider the following points which arise and out of the present proposal, namely

(1) It is not understood what the Registrar of Co-operative Societies means in his letter dated the 19th April 1943 at p.1 ante that there is no special provision for the splitting up of a society registered under the said Act. It is presumed that the transactions in the present case are within the scope of section 15(2) of the Act; if so, it would be competent for the Provincial Government under section 67 to exempt such a class of societies from the provisions of proviso (b) to section 40, by directing that the 10 years period mentioned therein shall be calculated from the date of registration of the society whose assets and liabilities, were transferred to such class of transferee societies. However, R.D should confirm the presumption made above, in consultation, if necessary, with the Registrar of Co-operative Societies.

(2) Under proviso (b)to section 40, in the case of a Resource Society on a basis of unlimited liability in which the members hold shares, no distribution of profits as laid down under section 40 shall be made until 10 years from the date of registration of the Society have elapsed. As a result of the present proposal the transferee societies would be entitled to distribution of profits after 10 years from the date of registration of the transferor society, and the profits so distributable would be not only those on the assets taken over from the transferor society but those on the transferee society's own assets as well. It may attimes happen that on this proposal a transferee society cannot distribute profits on it-s own assets despite its life of over 10 years if the transferor society has not attain a life of 10 years. and a transferee society can distribute profits on its own assets despite itw not having attained of 10 years if the transferor society has attained 10 ye

It cannot be gathered from the papers whether the above result has been considered and approved by the Registrar of Co-operative Societies or the R.D R.D. is therefore, requested to make the position clear.

Sd/- N.K.D.
16-6

For Remembrancer of Legal Affairs.

M.R. to R.D. , No. 4333, dated the 19th June 1943

Office of the R.L.A.

It appears from the list of the co-operative societies published in Part 1 of the B.G.G. of 1942 under No.E.D.M. 51 that the Bombay Provincial Co-operative Institute was register in 1918. It was presumably registered under the Co-operative Societies Act, 1912 and must in virtue of the provisions of section 72 of the Bombay Co-operative Societies Act, 1925, be deemed to be registered under the latter Act. Accordingly the provisions of the Bombay Co-operative Societies Act, 1925, wil apply to the Institute. Under section 71 of that Act the Provincial Government has been given power to make rules to provide inter alia forthe appointment of the members of the Committee. Section 3(b) ofthe Act defines "Committee" as meaning the committee of Management or other directing body to whom themanagement of the affairs of a society is entrusted. It will be seen from by-law No. 23 of the By-laws of the Institution, particularly clause (k) thereof that themanagement of the affairs of the Institute has been entrusted to its Executive Committee. That being so, the Executive Committee is a Committee within the meaning of section 3(b) of the Bombay Co-operative Societies Act, 1925 and its constitution will be regulated by the Act and the rules made thereunder. The Act makes no provision forthe constitution of the Committee, but rule 4 ofthe rules made under section 71 ofthe Act gives power to a society to make by-laws for the appointment and removal of the members of the committee and the duties and powers of the committee. The constitution of the committee is thus left to be determined by the By-laws which a society may duly make. Since thepower to make by-laws for the appointment of the members of the Committee so given to a Society is not subject to any restrictions, there would seem to be no legal objection to the Institute including in its Executive Committee a representative of the Education

Committee referred to by a proper amendment of its by-laws. It is xxx presumed that the proposed amendment of By-law No. 21 is being made by the Institute after following the procedure laid down in rule 6 of the Bombay Co-operative Societies Rules, 1927. The question whether the proposed by-law should be approved by the Registrar or not is an administrative question for the R.D. to decide.

Sd/-B.N.M.
27-8

Remembrancer of Legal Affairs.

U.R. to R.D. , No. 5840 , dated the 28th August 1943.

S.C. 14/7
4 copies.

R.I.No. 11397/8-12-43.

Submitted with papers -

C.S.Phadke
8-12

S.S.

2. Attention is invited to this office u.r. to R.D. No. 4669 , dated 6th June 1942 (p. 15 ante) para 2 of the remarks of the Registrar-Co-operative Societies, dated 26th June 1943 (p.19) and U.R.,R.D.No. 7359/39, dated 15th July 1942, under which the Bombay Co-operative Insurance Society Limited, was permitted also to invest its funds in any of the shares or securities therein. With the concurrence of the Superintendent of Insurance (p. 153) R.D. has now decided (p. 155) to permit the said society also to invest in preference shares and or debentures of joint stock companies incorporated in British India, subject to the conditions specified in Secretary, R.D.'s D.O. letter dated 17-11-1943 (p. 145). The draft order under section 67 of the Bombay Co-operative Societies Act, 1925 at p. 157 for that purpose is sent to the R.L.A. for scrutiny.

3. The proposed draft order (p. 157) is on the lines of G.O.,R.D.No. 7359/39, dated 15-7-1942(p.31) and as slightly amended, is in order Therefore, reply may be "The draft order at p. 157, as slightly amended, is in order.

Sd/-B.D.P.
11-12-43.

The draft order at p. 157, as further revised is for approval. Section 27(1) of the Insurance Act, 1938, applies to every insurance an order under section 67 of the Bom. Co-operative Societies Act, 1925, does not dispense with it the reference to s. 27(1) of the Insurance Act has been deleted.

Reply may be as suggested by S.S. at A abcve,

D.S.
Sd/-V.K.D.
13-12

R.L.A.
Sd/-PN.M.
13-12

ORDER.

Revenue Department.
Bombay Castle, December 1943.

Bombay Co-operative Societies Act,1925.

No. 7359/39.- In exercise of the powers conferred by section 67 of the Bombay Co-operative societies Act, 1925(Bom. VII of 1925 the Government of Bombay is pleased to direct that for a period of two years from the date of this Order, the provisions of section 37 of the said Act shall apply to the Bombay Co-operative Insurance Society Limited, with the following modification, namely

Subject to the provisions of sub-section (1) of section 27 of the Insurance Act, 1938 (IV of 1938), the said Society may also invest its funds in preference shares or debentures of join stock comapnies incorporated in British India subject to the conditions (1) that no investment in such preference shares or debentures shall be made without the unanimous approval of the Board of Directors of the said Society; and (2) that such investment shall not exceed one-third of the funds of the said Society.

By order of the Governor of Bombay.

Secretary to Government.

S.C. 14/7
4 copies.